

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**Julio Rodriguez,**

**Petitioner,**

**v.**

**Case No. 2:18-CV-114**

**Judge Michael H. Watson**

**Magistrate Judge Chelsey M. Vascura**

**David Gray, Warden,  
Belmont Correctional Institution,**


**Respondent.**

**OPINION AND ORDER**

On February 12, 2018, Petitioner, a state prisoner, sought a petition for a writ of habeas corpus under 28 U.S.C. § 2254. ECF No. 1. On March 19, 2018, the Magistrate Judge issued a Report and Recommendation (“R&R”) recommending that the petition be transferred to the Sixth Circuit as successive because it constitutes Petitioner’s second attempt to challenge the same 1995 state court conviction under § 2254. ECF No. 4. A review of this Court’s docket in *Rodriguez v. DeWitt*, Case No. 2:99-cv-879 (S.D. Ohio, Sept. 10, 1999) also reveals that Petitioner could have brought the claims that he currently asserts—involving allegations about the state court judge’s actions in 1995—in his previous § 2254 action. *In re Bowen*, 436 F.3d 699, 704 (6th Cir. 2006) (citing *McClesky v. Zant*, 499 U.S. 467, 489 (1991)). Moreover, although Petitioner was advised of the right to object to the Magistrate Judge’s R&R, and of the consequences of failing to do so, no objections have been filed. The R&R, ECF

No. 4, is therefore, **ADOPTED** and **AFFIRMED**. Petitioner's motion to amend is **DENIED**.

**IT IS SO ORDERED.**

  
**MICHAEL H. WATSON, JUDGE**  
**UNITED STATES DISTRICT COURT**